

02296.002320.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Application of: |) | |
| | : | Examiner: Blessing M. Fubara |
| CHRISTINE NICOL, ET AL. |) | |
| | : | Art Unit: 1618 |
| Application No.: 09/806,915 |) | |
| | : | |
| Filed: November 13, 2001 |) | |
| | : | |
| For: ANIMAL STEREOTYPY |) | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. §1.132

Sir:

I, Patricia Harris, declare and say that:

1. In 1988 I became Head of the Clinical Chemistry and Haematology Laboratories at the Animal Health Trust, Newmarket, and of my own Metabolic Lameness Research Group. Since 1995 I have been Senior equine nutritionist at WALTHAM Centre for Pet Nutrition. I was awarded an Adjunct Professor of Equine Studies at Virginia Polytechnic Institute and State University in 2000. I am currently Director of Science at Mars Horsecare UK Ltd and have been in this position since 2003. I have Diplomate Status of the European College of Veterinary Clinical and Comparative Nutrition, and as such am a European specialist in veterinary nutrition.

2. I graduated from Cambridge University with an Honours Degree in 1980, qualified as a Veterinary Surgeon (as a Member of the Royal College of Veterinary Surgeons) from Cambridge Veterinary School in 1983, and in 1989 I was awarded a Doctor of Philosophy

by Cambridge University for my thesis entitled "Aspects of the Equine Rhabdomyolysis Syndrome".

3. Although I consider myself an expert because I have worked in the field of equine nutrition for the past 13 years, I believe that I can comment on the capabilities, understandings, views and knowledge of the person having ordinary skill in the art in the field of equine nutrition and related areas.

4. I am one of the named inventors of the above-identified United States Patent Application.

5. I am aware that Claims 1, 2, 7-18, 20-23, 28-30 and 34 are rejected under 35 U.S.C. § 103(a) over Winskill *et al.*, Animal Behavior Science 48:25-35 (1996) in view of Johnson *et al.*, Equine Veterinary Journal 30(2): 139-143 (1998), further in view of Pagan, Australian Equine Veterinarian 16(4): 159-161 (1998). I am also aware that Claims 24 and 25 are rejected under § 103(a) over Johnson *et al.*, and Winskill *et al.*, in view of Pagan.

6. Differences between the claimed invention and the cited references, and reasons why a combination of the cited references would not render the claimed invention obvious to the person having ordinary skill in the art, are given below.

i. Winskill *et al.* does not teach or suggest any association between animal stereotypy and acidity of the intestinal tract.

ii. Johnson *et al.* does not teach or suggest that gastric acidity is associated with equine stereotypy.

iii. Johnson *et al.* does not teach or suggest oral administration of sodium carbonate to horses.

iv. Pagan does not teach or suggest that formation of ulcers, or any other acidity of the intestinal tract, is associated with stereotypic behaviour.

v. Disclosure of a link between hindgut acidity and stereotypy in the horse would not have led the skilled person to believe that there is also necessarily a link between stomach acidity and stereotypy.

vi. The person of ordinary skill in the art, in view of the evidence provided in my Declaration filed 10/11/06, would not in my opinion have included carbonate in the feed of horses in order to treat stereotypy.

7. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Subscribed this 29th day of April, 2008.

A handwritten signature in cursive script that reads "Patricia Harris". The signature is written in dark ink and is positioned above a horizontal line.

Patricia Harris